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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,176	02/17/2004	Paul Van Huis	D-30345-01	9857

7590 11/28/2006  
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EXAMINER

HESS, DOUGLAS A

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/780,176

Applicant(s)

HUIS ET AL.

Examiner

Douglas A. Hess

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-6,11,14,16,17,19,21,22,27-29 and 39-66 is/are pending in the application.
- 4a) Of the above claim(s) 1-4-6,11,14,16,17,19,21,22,27-29,39-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45,48,49 and 56-64 is/are rejected.
- 7) ☒ Claim(s) 46,47,50-55,65 and 66 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 45 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haley USP 5,078,255 in view of Baker USP 6,453,644.

See the previously attached marked up copy of the Haley Patent cover sheet depicting the claimed features. Haley fails to teach a machine capable of manufacturing a string of packaging cushions. Baker teaches a machine capable of manufacturing a string of packaging cushions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

Art Unit: 3651

utilize the Baker device as an input for the Haley patent, since the Haley patent is merely dealing with a portion of a complete device/process and Haley obviously must have a manufacturing machine or supplying machine of sorts to feed his device at the input end in order for it to function in its intended manner.

4. Claims 45, 49, 56-61, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marschke USP 5,732,609 in view of Baker USP 6,453,644.

See the previously attached marked up copy of the Marschke Patent cover sheet depicting the claimed features. Marschke fails to teach a machine capable of manufacturing a string of packaging cushions. Baker teaches a machine capable of manufacturing a string of packaging cushions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the Baker device as an input for the Marschke Patent, since the Marschke Patent is merely dealing with a portion of a complete device/process and Marschke obviously must have a manufacturing machine or supplying machine of sorts to feed his device at the input end in order for it to function in its intended manner.

5. Claims 62 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marschke.

Marschke teaches the device as claimed except for showing that his inlet area of his transport conveyor is at a higher elevation (about 4 feet) than the manufacturing outlet elevation. It would have been an obvious matter of design choice as to how the elements of a device are arranged. Since Marschke teaches all of the claimed elements it would have been an obvious

Art Unit: 3651

design consideration as to the arrangement of the elements based on the working space available and the size of the elements and the flow of the articles handled by the elements, all well within the level of ordinary skill in the art.

***Allowable Subject Matter***

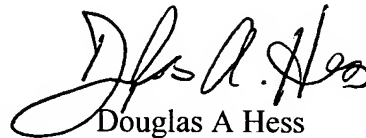
6. Claims 46, 47, 50-55, 65, and 66 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas A. Hess whose telephone number is 571-272-6915. The examiner can normally be reached on M-Thurs 5:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3651

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Douglas A Hess  
Primary Examiner  
Art Unit 3651

11/15/06

DAH  
November 15, 2006